

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF ALABAMA  
3 NORTHERN DIVISION  
4 GRAND JURY  
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7 IN RE:

8 GRAND JURY INVESTIGATION

CRC 03-0233

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15 BE IT KNOWN that on Wednesday, September 21,  
16 2005, the testimony of FORREST "MAC" MARCATO was  
17 taken before the Grand Jury of the United States  
18 District Court for the Middle District of Alabama,  
19 Northern Division, in the Grand Jury Room, United  
20 States Courthouse, One Church Street, Montgomery,  
21 Alabama; RICHARD PILGER interrogating.

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DUNN, KING & ASSOCIATES  
431 SOUTH COURT STREET  
MONTGOMERY, ALABAMA 36104  
(334) 263-0261

1       waved at Crum and they spoke and talked about this or  
2       that little issue that I wasn't even really listening  
3       to because it wasn't something I even cared about.  
4       And then I met the Governor. And it wasn't any more  
5       than we shook hands and he patted me on the back and  
6       really appreciated me. And then all of a sudden  
7       somebody called for him and he's gone again. That's  
8       about the extent of it and we left.

9       Q           Now, when you met the Governor then, this is  
10       Governor Don Siegelman, right?

11       A           That's Don Siegelman.

12       Q           Had you ever met the Governor before?

13       A           Yes.

14       Q           And when was that?

15       A           It was the first time he ran, four years  
16       before.

17       Q           And in either of those meetings did you  
18       discuss your business with him?

19       A           No.

20       Q           Now, subsequent to the meeting where you  
21       gave him the three checks dated September 9th, 2002,  
22       did you get a telephone call from the Governor?

23       A           Yeah, I did.

24       Q           And when was that?

25       A           About a week later. It could have been four

1 or five days. It might have been eight days. I'm  
2 going to say about a week later he called me on the  
3 phone, and they paged --

4 Q Let me get a few details of the  
5 circumstances first. The date on the checks again  
6 was September 9th, 2002. Were they written the same  
7 day that you gave them to the Governor?

8 A Yes, sir. We took them straight with us.  
9 We wrote the checks. Crum told us what to do. I  
10 walked out and got in the car and we went straight  
11 down there.

12 Q Now, the phone call you're talking about is?

13 A A week to ten days after, maybe a week  
14 later.

15 Q And where were you when you got the call?

16 A At my office.

17 Q Okay. And did you pick up the phone or what  
18 happened?

19 A Well, I was paged over the intercom, and  
20 they said it was Don Siegelman on the phone. I said  
21 yeah, okay, well, put George Bush on hold. I  
22 actually thought -- I actually figured it was Bill  
23 Bradley or somebody like that, because they would  
24 call up, you know, and say this is the president of  
25 the United States or whatever. It took a minute or

1 so talking to him to realize this really was the  
2 Governor, because I thought it was somebody pulling a  
3 joke on me.

4 And I figured out it was the Governor. We  
5 talked a couple of pleasantries. And then he said  
6 that he was getting ready to go into some kind of big  
7 meeting, some kind of big important meeting about  
8 RainLine, which I thought really strange. What kind  
9 of meeting would he be going to?

10 Then almost instantly he rolled right over  
11 and started talking about being a businessman. And I  
12 was listening, and he said, well, you're a  
13 businessman and for you to operate you've got to have  
14 money. You've got to have cash coming in, you've got  
15 to have money, whatever. Of course, that's pretty  
16 much understood.

17 Then he said, but think about it like this.  
18 I'm a businessman, too, he said, but my business is  
19 being the governor or running for governor. He says,  
20 I have to have money to operate, too. And then he  
21 said, I need you to send me \$250,000. And I said,  
22 sir, you must don't know me. You must have me  
23 confused with somebody else, I said, because I ain't  
24 got that kind of money. He said, oh, I do know you,  
25 too. He said, I know you well and you could pay it.

1 I said, well, I can't pay it. Then he said, what  
2 about a hundred thousand? I said, I can't do that.  
3 He said, well, then just send me whatever you can.  
4 And really at that point I was kind of reeling a  
5 little bit and I don't know what was said after that,  
6 maybe bye. But that was the end of that  
7 conversation.

8 Q About how long altogether was that  
9 conversation?

10 A Three, four, five minutes, you know, just  
11 long enough to tell what I just told, maybe with a  
12 few pleasantries.

13 I mean I was really shocked and amazed  
14 because I felt like I was being shook down or  
15 something. So I walked in there and told my wife. I  
16 said, you ain't going to believe who just called me.  
17 And I went and told her the story. I told her I just  
18 could not believe this because -- you know, it kind  
19 of made me angry, but it also kind of worried me. If  
20 you think about it, here's the governor mentioning my  
21 company and then wanting this money. I mean you  
22 don't know what they're going -- you don't know what  
23 they could do to you or how they could mess you up or  
24 something, you know.

25 Q Now, when you say that, you don't know what

1 they could do or how they could mess you up, you'd  
2 had difficulty getting RainLine approved for use in  
3 the state of Alabama previously, right?

4 A I've had a lot of problems, and it's not  
5 about the merit of the product.

6 Q And you had seen that approval turned on and  
7 turned off, right?

8 A Like a political football was the way I used  
9 to describe it. I was sick of it.

10 Q And was all that in your mind when you came  
11 up shocked after that call?

12 A Of course. Because, see, every time I turn  
13 around somebody -- and this is a safety thing for the  
14 people. It's not -- it shouldn't be dictated by any  
15 kind of politics. Like in California, in California  
16 and Oregon, these other places, politics don't come  
17 into it. You don't have to know anybody. They use  
18 the product on the merit. But not in Alabama.

19 Q Now, sir, did you give Don Siegelman any  
20 \$250,000 after that phone call?

21 A No. I didn't give him anything. We didn't  
22 give him a dime. We were through with him.

23 Q In fact, did you at that point switch your  
24 support to Governor Siegelman's opponent in that  
25 campaign, Mr. Riley?